

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Section 29.80
Title 14, California Code of Regulations (CCR)
Re: Take of Crustaceans While Diving

I. Date of Initial Statement of Reasons: July 11, 2006

II. Dates and Locations of Scheduled Hearings:

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|-----|----------------------|-----------|------------------|
| (a) | Notice Hearing: | Date: | August 4, 2006 |
| | | Location: | Sacramento, CA |
| (b) | Discussion Hearings: | Date: | October 6, 2006 |
| | | Location: | San Diego, CA |
| | | Date: | November 3, 2006 |
| | | Location: | Redding, CA |
| (c) | Adoption Hearing: | Date: | December 8, 2006 |
| | | Location: | Santa Monica, CA |

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Existing regulations of Section 29.80, Title 14, CCR, govern the recreational take of crustaceans while skin diving or while using SCUBA gear. Subsection (a) provides a general allowance that crustaceans may be taken by hand, while Subsection (g) states that "skin and SCUBA divers may take crustaceans by the use of the hands except divers may not possess any hooked device while diving or attempting to dive." The Department proposes to clarify this language to reduce confusion and improve enforcement of the regulations in this Section.

The intent of the prohibition on hooking devices is to ensure that divers do not use gaffs to reach into crevices in order to remove lobsters or crabs in areas out of reach. However, while divers may not possess hooked devices, the regulation fails to clearly state that skin and SCUBA divers may take crustaceans only by hand. The use of objects such as sticks, spears, or mops is known to improve efficiency and productivity for crustaceans while diving, thereby increasing catch rates.

The Department proposes that the Commission amend subsection (g) of Section 29.80, to make clear that skin and SCUBA divers may take crustaceans by hand only. The change will improve the ability to enforce the requirement that divers take crustaceans by hand, and will also improve clarity and reduce confusion for the public.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, and 205, Fish and Game Code.

Reference: Sections 200, 202, 205, 206, 209, 210, 215, 218, and 220, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

None.

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

None.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

Should the Commission select the No Change Alternative, public confusion and difficulty for enforcement will continue regarding take of crustaceans while skin or SCUBA diving.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Modifying the language to clarify that while diving with SCUBA gear, take of crustaceans is authorized "by hand only" makes only a non-substantive, technical change to the regulations, to aid enforcement, public understanding and reduce confusion.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of

New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

Informative Digest/Policy Statement Overview

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Minor changes may be proposed to improve the clarity of the regulations.